Montana Department of Revenue

Dan Bucks
Director

Brian Schweitzer
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EXHIBIT 8
DATE 3/28/11
HB 616

MEMORANDUM

To: Revenue and Transportation Interim Committee (RTIC)

From: Alan Peura, Deputy Director

Date: September 15, 2010

Subject: RTIC Questions on Agricultural Reappraisal

At the August 2010 meeting of the RTIC, a series of questions from legislators were directed to the Department of Revenue regarding the 2009 reappraisal of agricultural land and the committee requested responses to these questions as part of the September RTIC hearing on these matters. This memo is intended to provide a response to these questions.

Please note that many of the issues involved in these questions are the subject of ongoing litigation that involves the Department of Revenue, specifically Lucas vs. Montana Department of Revenue. Given that the outcome of this litigation could have a material impact on the state general fund, and that the Department is the defendant in this case, the following responses and subsequent discussion at the public hearing may be proscribed in order to minimize the risk to this litigation and, by extension, the risk to the state general fund.

The overarching theme in all of these responses is that the Department followed MCA Sections 15-7-101, 15-7-111 and administrative rule ARM 42.20.501 in completing the 2009 agricultural reappraisal, but for the treatment of productivity only changes to agricultural land. The Department has implemented a full correction to all parcels affected by this error to the productivity only changes. Revised 2009 assessment notices have recently been mailed to producers noting this correction for those who filed AB26 informal reviews. New 2010 assessment notices making this correction have also been mailed to all others that did not file an AB26.

Any taxpayers that have questions about their own property are invited to contact their local Department of Revenue Office. A complete listing of our local offices may be found at: http://revenue.mt.gov/abouttheagency/local_office_locations/default.mcpx

1. **Explain whether the agricultural advisory committee adopted the executive summary as part of its final report.**

   The full report of the Agricultural Advisory Committee includes the executive summary. The Committee approved a motion at the December 11, 2008 meeting to forward the final report to the Governor.

   This report accurately reflects what the department implemented for agricultural land reappraisal, including the phase in practices, which is also reflected in the administrative rules that the department followed. There is no discrepancy between this report and the department practice.

2. **Definition of what constitutes reclassification; also explain detection by department as to when a change goes onto the property record.**

See ARM 42.20.501:
(13) "Land reclassification" means changing the use of land from one type of agricultural use to a different type of agricultural use. For example, a land reclassification occurs when agricultural land that was previously used as grazing land is converted to irrigated land. In a land reclassification, the land is dedicated to agricultural purposes both before and after the change in land use. It is this characteristic that distinguishes a land reclassification from the more general land use change.

(15) "Land use change" means the conversion of a current use of land to a different, alternate use. Land splits shall be considered land use changes. Examples of land use changes contained in this definition include, but are not limited to, the following:
(a) agricultural land converted to tract land;
(b) forest land converted to tract land;
(c) forest land converted to agricultural land; or
(d) land that is converted to another use due to a subdivision of real property.

(18) "New construction" means the construction, addition, or substitution of improvements, buildings, living areas, garages, and outbuildings; or the extensive remodeling of existing improvements, buildings, living areas, garages, outbuildings, ***land reclassification, and land use changes*** [emphasis added].

When department staff detects a change to the property, (e.g. land reclassification, land use change, new construction, etc.) that change to the property is added to the official property record and applied to the next year valuation calculation. It is immaterial for taxation purposes when the actual change to the property occurred, as it is the detection that determines bringing that change onto the tax rolls for valuation and subsequent.

3. **Describe the changes triggering the calculation of a new VBR when change is detected, e.g. minimal change in mapping leads to large change in VBR compared to 2002.**

See the above ARM definitions of land reclassification, land use change, and new construction.

Note that neither Montana Code nor the Administrative Rules Manual provide for the department to define even a small or minimal change as anything other than a land reclassification, land use change, or new construction. At that point, the department has followed the administrative rules for implementing phase in through the calculation of the value before reappraisal (VBR).

See ARM 42.20.501:
(25) "Value before reappraisal (VBR)" means the 2002 tax year value **adjusted for any new construction** [emphasis added] or destruction that occurred in the prior year. The VBR for the 2003 tax year and subsequent years is the same as the 2002 tax year value if there is no new construction, destruction, land splits, land use changes, land reclassifications, land productivity changes, improvement grade changes, or other changes

made to the property during 2002 or subsequent tax years. (History: 15-1-201, 15-7-111, MCA; IMP, 15-6-222, 15-7-111, 15-10-420, MCA; TEMP, NEW, 1997 MAR p. 1593, Eff. 9/9/97; AMD, 1999 MAR p. 2905, Eff. 12/17/99; AMD, 2003 MAR p. 315, Eff. 2/28/03; AMD, 2006 MAR p. 3103, Eff. 12/22/06.)

42.20.502 DETERMINATION OF VALUE BEFORE REAPPRAISAL (VBR), EXCLUDING INDUSTRIAL PROPERTIES (1) For property that contains no new construction, destruction, land splits, land use changes, land reclassifications, land productivity changes, improvement grade changes, or other changes made to the property during 2002 or subsequent tax years, the current year VBR will be the same as the prior year VBR.
(2) **For class three property that contains a land reclassification or a land use change, the current year VBR will be the prior year VBR of the new classification or land use change** [emphasis added].
(3) For class three property that contains a productivity or grade change, the current year VBR will be the prior year VBR of the prior grade.

4. **Explain how mapping changes but no physical changes led to a calculated VBR and negates the phase-in.**

   The department is not aware of any case where this has occurred.

   This question has not been raised in any of the 10,145 agricultural and forest land AB26 or appeal cases (2.5% of all ag parcels), nor has any documented case like this been presented to this committee or, as we understand, to legislative staff (see the September 10, 2010 legal memo from legislative staff to the RTIC).

   The Department reconciled all map parcel sizes to the deeded legal descriptions so that these types of changes should not occur.

5. **Provide examples of the phase in of other classes of property, e.g., remodeling to a house that is phased in.**

   See chart presented to committee.

6. **Discuss why little problems cause large consequences on phase in.**

   See maps presented to committee. Property is appraised as a "whole" for each parcel.

7. **Provide examples derived from Higgins ranch assessment notice.**

   See map presented to committee.

8. **Discuss productivity differences along county lines and what in the appraisal process would lead to an owner's poorest land having higher productivity than best land.**

   Montana law requires that the department measure productivity according to average management practices. In order to implement this, the Governor's Agricultural Land Advisory Committee recommended that the department adjust spring wheat production by the 12 year county wide average obtained from MT Ag Statistics. The adjustments are county specific and can lead to differences in the DOR estimate of productivity across county lines, but reflects the adjustment process based in law. This is most noticeable on summer fallow farm land. Where productivity issues have been pointed out to us in the appeal process with supporting evidence that is documented, we have made adjustments, such as between Valley and Daniels Counties.

In the only appeal case on this matter the State Tax Appeal Board (STAB) did not agree with the producer that there was sufficient documentation to support a county line effect and the STAB decision upheld the department values.

Through the 10,145 agricultural and forest land informal reviews and appeal cases, the department has seen no documented case of an owner's poorest land having higher productivity than the best land.

9. **Compare the relative cost of the Department of Revenue determined VBR and phase in versus the proposal to also phase in reclassification changes.**

   See attached data table.

Attachments:
Administrative Rule 42.20.501(adopted in 1997)
1997 Administrative Rules Hearing Notice
Department decision document from 1997 reappraisal implementation project (SB 195)
Phase in chart
Fiscal impact data table

Subchapter 5

Phase-In Valuation

<u>42.20.501 DEFINITIONS</u> The following definitions apply to this subchapter:

(1) "2002 tax year value" means the market value of a property which appears on the 2002 property tax record of that property.

(2) "Annual appraisal trend factor class five" means a factor used to annually reappraise class five qualifying air and water pollution control property, new industrial property, gasohol facilities, qualifying research and development firms, and electrolytic reduction facilities real property by trending their cost values up or down based on accepted cost indices.

(3) "CDU rating" means a composite rating of the overall condition, desirability, and usefulness of a structure, used nationally as a simple, direct, and uniform method of estimating accrued depreciation.

(4) "Comstead exemption" means the percentage of phase-in value of commercial property that is exempt from taxation pursuant to 15-6-222, MCA.

(5) "Current year phase-in value" is the difference between the reappraisal value and the value before reappraisal (VBR) times the phase-in percentage, added to the VBR. The current year phase-in value is the amount subject to tax each year, and is determined by the following formula:

Current year phase-in value =
[(Reappraisal (REAP) value - VBR) x phase-in %] + VBR

(6) "Destruction" means the removal or deletion of improvements, buildings, living areas, garages, and out-buildings caused by burning, razing, or natural disaster.

(7) "Dwelling unit" is defined as a building or portion of a building that contains living facilities with provision for sleeping, eating, cooking, and sanitation for one or more persons.

(8) "Full reappraisal to taxable value conversion factor for class four commercial property" is the total taxable value of class four commercial property divided by the total reappraisal value of the same class four commercial property.

(9) "Full reappraisal to taxable value conversion factor for class four residential" is the total taxable value of class four residential property divided by the total reappraisal value of the same class four residential property.

(10) "Homestead exemption" means the percentage of phase-in value of residential property that is exempt from taxation pursuant to 15-6-222, MCA.

(11) "Improvement grade change" means a change in the quality of construction of an improvement. Each improvement grade signifies a different level of construction quality. Examples of improvement grades include, but are not limited to, the following:

(a) 1F-1 = cheap construction;
(b) 1F-5 = average construction; and
(c) 1F-9 = superior construction.

(12) "Land productivity change (grade change)" means a change in the productive capacity or yield of agricultural or forest land. In a land productivity change, the land use does not change; rather, the land as currently used simply becomes more or less productive. For example, a productivity change in grazing land may occur when it is discovered that the productivity potential has decreased due to a new saline seep on the land. Because the land continues to be used as grazing land, the department shall continue to classify the land as agricultural grazing land, but the grade of the grazing land may be changed to reflect its lessened productivity.

(13) "Land reclassification" means changing the use of land from one type of agricultural use to a different type of agricultural use. For example, a land reclassification occurs when agricultural land that was previously used as grazing land is converted to irrigated land. In a land reclassification, the land is dedicated to agricultural purposes both before and after the change in land use. It is this characteristic that distinguishes a land reclassification from the more general land use change.

(14) "Land split" means the division of a single property into two or more properties for the ultimate purpose of conveying one or more of the properties to a new owner or owners.

(15) "Land use change" means the conversion of a current use of land to a different, alternate use. Land splits shall be considered land use changes. Examples of land use changes contained in this definition include, but are not limited to, the following:

(a) agricultural land converted to tract land;
(b) forest land converted to tract land;
(c) forest land converted to agricultural land; or
(d) land that is converted to another use due to a subdivision of real property.

(16) "Living area" means any room or group of rooms designed as the living quarters of one family or household, equipped with cooking and toilet facilities, and having an independent entrance from a public hall or from the outside.

(17) "Neighborhood (NBHD) group percentage" means the percent of change in value from the total 2002 tax year value to the total 2003 reappraisal value, excluding properties with new construction, for those homogeneous areas within each county or between counties that have been defined as a neighborhood group. The neighborhood group percentage is determined by using the following formula:

$$\text{Neighborhood Group Percentage} = \frac{(\text{Total 2003 NBHD REAP Value} - \text{Total 2002 NBHD Tax Year Value})}{\text{Total 2002 NBHD Tax Year Value}}$$

(a) Individual neighborhood group percentages will be determined for residential land, commercial land, residential improvements, and commercial improvements.

(18) "New construction" means the construction, addition, or substitution of improvements, buildings, living areas, garages, and outbuildings; or the extensive remodeling of existing improvements, buildings, living areas, garages, outbuildings, land reclassification, and land use changes.

(19) "New construction trend factor for industrial property" means a factor used to adjust reappraisal values and VBRs (values before reappraisal) in instances where the property has new construction or destruction. The factor will be derived from nationally accepted cost indices.

(20) "Phase-in percentage" for tax years 2003 through 2008 is 16.6% per year. The phase-in percentage accumulates annually.

(21) The "previous year tax revenue" means the product of multiplying the previous tax year total taxable value for each taxing jurisdiction by the previous year mill levy for that taxing jurisdiction.

(22) "Reappraisal (REAP) value" means the full 2003 value determined for the current reappraisal cycle pursuant to 15-7-111, MCA, adjusted annually for new construction or destruction. The 2003 reappraisal value reflects a market value of the property on January 1, 2002. A current year REAP value is the same as the 2003 reappraisal value of the property if there is no new construction, destruction, land splits, land use changes, land reclassifications, land productivity changes, improvement grade changes, or other changes made to the property during 2003 or subsequent tax years.

(23) "Subdivision of real property" means the first sale of a land parcel that results in the land being taxable as class four as described in 15-6-134, MCA, or nonagricultural land as described in 15-6-133(1)(c), MCA.

(24) "Taxable market value" means that portion of the total market value subject to taxation after the total market value has been adjusted, if applicable, for the phase-in of value, and the homestead/comstead exemption.

(25) "Value before reappraisal (VBR)" means the 2002 tax year value adjusted for any new construction or destruction that occurred in the prior year. The VBR for the 2003 tax year and subsequent years is the same as the 2002 tax year value if there is no new construction, destruction, land splits, land use changes, land reclassifications, land productivity changes, improvement grade changes, or other changes made to the property during 2002 or subsequent tax years. (History: 15-1-201, 15-7-111, MCA; IMP, 15-6-222, 15-7-111, 15-10-420, MCA; TEMP, NEW, 1997 MAR p. 1593, Eff. 9/9/97; AMD, 1999 MAR p. 2905, Eff. 12/17/99; AMD, 2003 MAR p. 315, Eff. 2/28/03; AMD, 2006 MAR p. 3103, Eff. 12/22/06.)

42.20.502 DETERMINATION OF VALUE BEFORE REAPPRAISAL (VBR), EXCLUDING INDUSTRIAL PROPERTIES (1) For property that contains no new construction, destruction, land splits, land use changes, land reclassifications, land productivity changes, improvement grade changes, or other changes made to the property during 2002 or subsequent tax years, the current year VBR will be the same as the prior year VBR.

(2) For class three property that contains a land reclassification or a land use change, the current year VBR will be the prior year VBR of the new classification or land use change.

(3) For class three property that contains a productivity or grade change, the current year VBR will be the prior year VBR of the prior grade.

(4) For class four property (excluding industrial property) that contains new construction, the current year VBR is determined by dividing the reappraisal value by one plus the percent of neighborhood group change. The following formula illustrates that calculation:

VBR = Reappraisal value /(1 + NBHD group percentage)

(5) Land which has been reclassified as residential or commercial land after January 1, 2002, will have the VBR determined by comparing other 2002 market values of similar residential or commercial land, and determining a comparable VBR for the new residential or commercial land.

(6) For class four property (excluding industrial property) that has been either partially or wholly destroyed, the current year VBR is calculated by first determining what percent of the property has been destroyed. That percent is multiplied by the prior year improvement VBR to determine a value amount that is attributed to the destruction. The current year VBR is then the difference between the prior year VBR and the value attributed to the destruction. The following formula illustrates that calculation:

Current year VBR =
Prior year VBR -
(Percent of property destroyed x prior year improvement VBR)

(7) For class ten property that contains a land reclassification or a land use change, the current year VBR will be the prior year VBR of the new classification or land use change.

(8) For class ten property that contains a productivity or grade change, the current year VBR will be the prior year VBR of the prior grade.

(9) The only instances when the current year VBR will be less than the prior year VBR are:

(a) in the case of class four improvements that have been partially or wholly destroyed;

(b) when the neighborhood group percentage change is negative and there is new construction; or

(c) when land use changes have occurred.

(10) In all other situations, the current year VBR will be the greater of the value determined through application of the formula in (4) or the prior year VBR. (History: 15-1-201, 15-7-111, MCA; IMP, 15-7-111, MCA; TEMP, NEW, 1997 MAR p. 1593, Eff. 9/9/97; AMD, 2002 MAR p. 3424, Eff. 12/13/02.)

42.20.503 DETERMINATION OF CURRENT YEAR PHASE-IN VALUE FOR CLASS THREE, CLASS FOUR, AND CLASS TEN PROPERTY (1) For tax years 2003 through 2008, the department is required to determine the current year phase-in value for each property in class three, class four, and class ten annually. The current year phase-in value is determined by subtracting the 2002 VBR from the 2003 reappraisal value multiplied by the applicable phase-in percentage, the product of which is added to the 2002 VBR value. The calculations of the phase-in values are represented by the following formula:

2003 Phase-in =
[(2003 reappraisal value - 2002 VBR value) x 16.66%]
+ 2002 VBR

2004 Phase-in =
[(2003 reappraisal value - 2002 VBR value) x 33.32%]
+ 2002 VBR

2005 Phase-in =
[(2003 reappraisal value - 2002 VBR value) x 49.98%]
+ 2002 VBR

2006 Phase-in =
[(2003 reappraisal value - 2002 VBR value) x 66.64%]
+ 2002 VBR value

2007 Phase-in =
[(2003 reappraisal value - 2002 VBR value) x 83.30%]
+ 2002 VBR value

2008 Phase-in =
2003 reappraisal value

(History: 15-1-201, 15-7-111, MCA; IMP, 15-7-111, MCA; TEMP, NEW, 1997 MAR p. 1593, Eff. 9/9/97; AMD, 1999 MAR p. 2905, Eff. 12/17/99; AMD, 2002 MAR p. 3424, Eff. 12/13/02; AMD, 2007 MAR p. 119, Eff. 12/22/06.)

42.20.504 NEW CONSTRUCTION DETERMINATION (1) The following criteria will be used to identify new construction and destruction:

(a) all residential or commercial structures, out-buildings, and mobile homes that were built, remodeled, or destroyed in the preceding year;

(b) properties with new, attached garages built in the preceding year;

(c) properties which had any land reclassification or land use changes; or

(d) properties with out-buildings built in the preceding year.

(2) The following will not be considered new construction or destruction:

(a) properties with square footage changes due to correction of measurements or sketch vectoring, or due to coding corrections for story heights, such as story with full finished attic to 1.5 stories;

(b) properties with improvement grade changes;

(c) properties with condition, desirability, and usefulness (CDU rating) changes;

(d) properties with changes in heat or air conditioning;

(e) residential dwelling units with changes in square footage of living area of 100 square feet or less;

(f) properties with changes in effective year; or

(g) properties with changes in finished basement areas. (History: 15-1-201, 15-7-111, MCA; IMP, 15-7-111, MCA; TEMP, NEW, 1997 MAR p. 1593, Eff. 9/9/97; AMD, 2002 MAR p. 3424, Eff. 12/13/02.)

42.20.505 ASSESSMENT NOTICES AND VALUATION REVIEWS (1) As required by 15-7-102, MCA, the assessment notice shall include:

(a) reappraisal value;

(b) current year phase-in value;

(c) total amount of mills levied against the property in the prior year;

(d) statement that the notice is not a tax bill; and

(e) amount of appraised value exempt from taxation under 15-6-222, MCA.

(2) A taxpayer may seek a department review of any of the required valuation items set forth in (1)(a), (b), and (e) of this rule. Additionally, a taxpayer may request a review of any of the methods used to determine those values which are shown in (1)(a), (b), and (e). (History: 15-1-201, 15-7-111, MCA; IMP, 15-6-201, 15-7-102, 15-7-111, MCA, and Sec. 11, Ch. 463, L. 1997; TEMP, NEW, 1997 MAR p. 1593, Eff. 9/9/97; AMD, 1999 MAR p. 2905, Eff. 12/17/99; AMD, 2002 MAR p. 3424, Eff. 12/13/02; AMD, 2006 MAR p. 3103, Eff. 12/22/06.)

42.20.506 CERTIFIED MILL LEVY DETERMINATION (REPEALED) (History: 15-1-201, 15-7-111, MCA; IMP, 15-6-134, 15-7-111, MCA; TEMP, NEW, 1997 MAR p. 1593, Eff. 9/9/97; AMD, 1999 MAR p. 2905, Eff. 12/17/99; REP, 2002 MAR p. 3424, Eff. 12/13/02.)

42.20.507 PROPERTY TAX ASSISTANCE AND TAX RELIEF PROGRAMS

(1) All valuation reductions allowed for under the property tax assistance program or other property tax relief programs will be applied against the current year taxable market value. (History: 15-1-201, 15-7-111, MCA; IMP, 15-7-111, MCA; TEMP, NEW, 1997 MAR p. 1593, Eff. 9/9/97; AMD, 1999 MAR p. 2905, Eff. 12/17/99.)

42.20.508 DEFINITIONS - INDUSTRIAL PROPERTY (REPEALED) (History: 15-1-201, 15-7-111, MCA; IMP, 15-7-111, MCA; TEMP, NEW, 1997 MAR p. 1593, Eff. 9/9/97; REP, 1999 MAR p. 2905, Eff. 12/17/99.)

42.20.509 DETERMINATION OF VALUE BEFORE REAPPRAISAL (VBR) FOR INDUSTRIAL PROPERTIES (CLASS FOUR) (1) For property that contains no new construction, destruction, land use changes, land splits, or other changes to the property, the current year VBR will be the same as the prior year VBR.

(2) The reappraisal value of new construction will be trended back to a VBR. The trend used to arrive at the VBR shall be calculated using cost indices from "Marshall Valuation Service." The trend used shall be called the new construction trend factor. The new construction trend factor for industrial properties is .84. The VBR will be adjusted to reflect the new construction as if it were in place in 2002. The same method will be used in subsequent tax years.

For purposes of illustration, assume the following:

Reappraisal New Construction Value	=	$100,000
New Construction Trend Factor	=	.84

(a) Given these assigned values, the trend factor is applied as follows:

New construction VBR =
REAP new construction value x new construction trend factor

Example: $84,000 = $100,000 x .84

(3) Property destroyed after January 1, 2002, will be removed from the VBR of the industrial site. The destroyed property also will be deducted from the reappraised value at its reappraised cost.

(4) Land which has been reclassified as industrial land after January 1, 2002, will have the VBR determined by comparing other 2002 market values of similar industrial land, and determining a comparable VBR for the new industrial land. (History: 15-1-201, 15-7-111, MCA; IMP, 15-7-111, MCA; TEMP, NEW, 1997 MAR p. 1593, Eff. 9/9/97; AMD, 2002 MAR p. 3424, Eff. 12/13/02.)

42.20.510 BASIC DETERMINATION OF PHASE-IN VALUE FOR CLASS FOUR INDUSTRIAL PROPERTY (1) The phase-in value is the difference between the reappraisal (REAP) value and the VBR, times the phase-in percentage, added to the VBR.

Formula: Phase-in value =
[(REAP value - VBR) x phase-in %]
+ VBR

(History: 15-1-201, 15-7-111, MCA; IMP, 15-7-111, MCA; TEMP, NEW, 1997 MAR p. 1593, Eff. 9/9/97.)

42.20.511 VALUATION OF CLASS FIVE REAL PROPERTY FOR QUALIFYING AIR AND WATER POLLUTION CONTROL PROPERTY, NEW INDUSTRIAL PROPERTY, GASOHOL FACILITIES, QUALIFYING RESEARCH AND DEVELOPMENT FIRMS, AND ELECTROLYTIC REDUCTION FACILITIES

(1) Qualifying air and water pollution control property, new industrial property, gasohol facilities, qualifying research and development firms, and electrolytic reduction facilities real property included in class five will be revalued annually. The department will apply an annual appraisal trending factor to the qualifying property to arrive at the market value. An annual appraisal trend factor will be calculated, using the January cost indices from Marshall Valuation Service, for the current tax year. If Marshall Valuation Service is not available, other accepted cost manuals or indices may be used.

(2) The annual appraisal trend factor will be applied to the previous year's market value to arrive at the current year's market value. (History: 15-1-201, 15-7-111, MCA; IMP, 15-7-111, MCA; TEMP, NEW, 1997 MAR p. 1593, Eff. 9/9/97; AMD, 2002 MAR p. 3424, Eff. 12/13/02.)

42.20.512 VALUATION OF CLASS FIVE LOCALLY ASSESSED ELECTRIC AND TELEPHONE COOPERATIVES AND TELECOMMUNICATIONS COMPANIES

(1) The department shall annually appraise locally assessed electric and telephone cooperatives' and locally assessed telecommunications companies' property using the methods described in ARM Title 42, chapter 22. The methods described are used in appraising other property with similar characteristics. (History: 15-1-201, 15-7-111, MCA; IMP, 15-6-135, 15-7-111, MCA; TEMP, NEW, 1997 MAR p. 1593, Eff. 9/9/97; AMD, 2002 MAR p. 3424, Eff. 12/13/02.)

42.20.513 VALUATION OF CLASS SEVEN PROPERTY (1) The department shall annually appraise class seven property using the methods described in ARM Title 42, chapter 22. The methods described are used in appraising other property with similar characteristics. (History: 15-1-201, 15-7-111, MCA; IMP, 15-7-111, MCA; TEMP, NEW, 1997 MAR p. 1593, Eff. 9/9/97.)

42.20.514 DETERMINATION OF TOTAL TAXABLE VALUE OF ELIMINATED PROPERTY (1) The total taxable value of eliminated property is determined by compiling the actual total value of properties that have been eliminated from a particular taxing jurisdiction. In cases where the actual values have not been compiled, the department will use a statewide average rate of 0.12% (.0012) to multiply by the previous year total taxable value in the taxing jurisdiction, to calculate an estimated value of eliminated property. (History: 15-1-201, 15-7-111, MCA; IMP, 15-10-420, MCA; NEW, 1999 MAR p. 2905, Eff. 12/17/99.)

42.20.515 DETERMINATION OF TOTAL TAXABLE VALUE OF NEWLY TAXABLE PROPERTY (1) For the 2009 tax year and subsequent tax years, the department will calculate for each taxing jurisdiction the total taxable value of class four newly taxable property as follows:

(a) For tax years 2009 and subsequent years, the department shall determine the market value of class four newly taxable property in a taxing jurisdiction. Class four newly taxable property in a taxing jurisdiction will include the total market value of class four property for any tax increment financing district which has been dissolved or terminated.

(b) The current year total market value is determined by valuing each current year parcel with the current cycle valuation schedules and models. These values for current year parcels are then added together to arrive at the current year total market value. The previous year total market value is determined by valuing each previous year parcel with the current cycle valuation schedules and models. These values for previous year parcels are then added together to arrive at the previous year total market value. The difference between the current year total market value and the previous year total market value is the total market value of class four newly taxable property.

(c) The newly taxable property value for class four property for the current tax year is determined by multiplying the current year total class four market value by the appropriate current year exemption percentage and the current year class four tax rate.

(2) For tax year 2009 and subsequent tax years, the department will calculate for each taxing jurisdiction the total taxable value of newly taxable property that is classified as class five, seven, eight, nine, twelve, thirteen, fourteen, fifteen, and sixteen property. The taxable value of newly taxable property of class five, seven, eight, nine, twelve, thirteen, fourteen, fifteen, and sixteen property shall be determined as follows:

(a) The department shall determine the total market value of newly taxable property in a taxing jurisdiction. The total market value of newly taxable property is calculated as the difference between the current year total market value for each class of property and the previous year total market value of the same class of property.

(b) For each class of property, the total taxable value of newly taxable property for the current tax year is determined by multiplying the current year total market value of newly taxable property by the current year tax rate for that class of property.

(3) The total taxable value of newly taxable class three and class ten property shall be determined in the same manner as set forth in (2) to the extent that land is transferred into a taxing jurisdiction (e.g., a change from exempt status to taxable status) and identified as newly taxable property. For jurisdictions in which land transfers have not been specifically identified, a value for newly taxable class three and ten property will not be calculated.

Implementation of SB 195 Affecting Agricultural Land and Forest Land

FOREST LANDS

The forest land appraisal system uses valuation schedules to apply a single value to each productivity grade. There are five valuation zones in the state. The forest land classification system contains four productivity grades. Therefore, there are 20 different forest land values in the state.

Under SB-195, forest land assessments will not receive an annual reduction in the class ten taxable percentage (.79%). The 1997 forest land assessments will be the 1996 actual value plus the difference between the 1997 reappraisal value and the 1996 actual value multiplied by .02. This will be done for each grade in each valuation schedule. The formula can be explained as follows: 1996 actual value + ((1997 reappraisal value - 1996 actual value)*(.02)).

A decision needs to be made on whether a change in forest land grading will be considered a reappraisal function or new construction.

Option 1: Grade Change = New Construction: If a forest land grade is changed to a different forest land grade, the <u>new</u> grade will become the 1996 adjusted value from which the phase-in value is calculated. The new grade will manually be entered in CAMAS and the system will calculate the new phase-in value. The following explanation demonstrates how this process will work:

Example: A value reduction is made from Grade 2 (good productivity) to Grade 4 (poor productivity) in forest valuation zone 1 (northwestern Montana).

Reappraisal Values Per Acre

1996	1997
Grade 2 = $501.26	Grade 2 = $1038.06
Grade 4 = $213.42	Grade 4 = $ 446.54

Phase-in Values Per Acre

1996		1997	
From Grade 2 To Grade 4 = $213.42	To	Grade 4 = $446.54	
1996 Adjusted Value	=	$213.42	Over ride entry
1997 Reappraisal Value	=	$446.54	
($446.54 - $213.42)	=	$233.12	
*.02	=	$4.66	
	+	<u>$213.42</u>	
1997 Phase in Value	=	$218.08	

A taxpayer who received a reduction from grade 2 to grade 4 in this example would see

No Changes in Agricultural Class or Productivity

The basic formula works for agricultural land when there are no class or productivity changes. The 1997 reappraisal value of agricultural land is maintained on the CALP table. The PA could contain the 1997 reappraisal value, the 1997 phase in value and the 1996 actual value. These are system generated value changes.

Changes in Agricultural Class or Productivity

A decision needs to be made on whether a change in agricultural land classification and/or grade changes will be considered a reappraisal function or new construction.

Option 1: Productivity Change = New Construction: If the productivity (grade) of agricultural land changes from one grade to another, the new grade will become the 1996 adjusted value from which the phase-in value is calculated. The new grade will manually be entered in CAMAS and the system will calculate the new phase-in value. The following explanation demonstrates how this process will work.

1996 Class	'96 Grade/Value	'97 Class	'97 Grade/Value
Non Irrigated	1A - $202.21/Ac	Non Irrig	1A3 - $232.92/Ac
	'96 Grade/Value		
	1A3 - $268.23		

1996 Adjusted Value as 1A3	=	$268.23/Ac.	Over ride entry
1997 Reappraisal Value	=	$232.92/Ac	
($232.92 - $268.23)	=	-$ 35.31	
* .02	=	-$ 0.71	
	+	$268.23	
1997 Phase In Value		$267.52	

Option 2: Productivity Change = Reappraisal: If the productivity (grade) changes from one grade to another, the previous grade remains as the 1996 actual value from which the phase-in value is calculated. The following explanation demonstrate how this process will work.

1996 Class	'96 Grade/Value	'97 Class	'97 Grade/Value
Non Irrigated	1A - $202.21/Ac	Non Irrig	1A3 - $232.92/Ac

1996 Actual Value	=	$202.21/Ac.
1997 Reappraisal Value	=	$232.92/Ac
($232.92 - $202.21)	=	$ 30.71
* .02	=	$ 0.61
	+	$202.21
1997 Phase In Value		$202.82

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DECISION = OPTION 2 ACCEPTED

Option 3: Classification Change = New Construction: If the classification of agricultural land changes from one use type to another, the new classification and grade will become the 1996 adjusted value from which the phase-in value is calculated. The new grade will be manually entered in CAMAS and the system will calculate the new phase-in value. The following explanation demonstrates how this process will work. (Assumes a change to Irrigated Land, minimum rotation and a $17.50 water cost):

1996 Class	'96 Grade/Value	'97 Class	'97 Grade/Value
Non Irrigated (Class code 1401)	1A - $202.21	Irrigated (Class code = 1101)	3 - $325.85
	'96 Grade/Value 3 - 297.65 (Class code = 1101)		

1996 Adjusted Value as Irrigated	=	$297.65/Ac.	Over ride entry
1997 Reappraisal Value	=	$325.85/Ac.	
($325.85 - $297.65)	=	$ 28.20	
*.02	=	$ 0.56	
	+	$297.65	
1997 Phase in Value		$298.21	

Option 4: Classification Change = Reappraisal: If an agricultural land classification is changed to a different use type, the previous classification and grade remain as the 1996 actual value from which the phase-in value is calculated. The following explanation demonstrate how this process will work. (Assumes a change to Irrigated Land, minimum rotation and a $17.50 water cost)

1996 Class	'96 Grade/Value	'97 Class	'97 Grade/Value
Non Irrigated (Class code 1401)	1A - $202.21	Irrigated (Class code = 1101)	3 - $325.85

1996 Actual Value	=	$202.21/Ac.
1997 Reappraisal Value	=	$325.85/Ac.
($325.85 - $202.21)	=	$123.64
*.02	=	$ 2.47
	+	$202.21
1997 Phase in Value		$204.68

DECISION : OPTION 3 ACCEPTED

Montana Department of Revenue

PHYSICAL CHANGES - NO PHASE-IN APPLIED - WITH ONE EXCEPTION (15.7.101, MCA & ARM 42.20.501)

VALUATION - PHASE-IN APPLIED (15.7.111, MCA)

PHYSICAL CHANGE DETECTED

NO PHASE-IN

	Description	Class	Example	Example	
NO PHASE-IN	House	4	New Home		$ Market value change for a home built in 2009 - Valued using 2002 market data (previous reappraisal) vs. 2008 market data (current reappraisal)
		4	New Addition to Home		$ Market value change for an addition built in 2009 - Valued using 2002 market data (previous reappraisal) vs. 2008 market data (current reappraisal)
		4	Rezoning		$ Market value change associated with value change due to a 2009 rezoning - Valued using 2002 market data (previous reappraisal) vs. 2008 market data (current reappraisal)
	Business	4	New Business		$ Market value change for a commercial property built in 2009 - Valued using 2002 market data (previous reappraisal) vs. 2008 market data (current reappraisal)
		5	Additional Seating		$ Market value change associated with value change due to increased seating in 2009 - Valued using 2002 market data (previous reappraisal) vs. 2008 market data (current reappraisal)
		6	House Converted to Business		$ Market value change associated with value change due to a 2009 change in use - Valued using 2002 market data (previous reappraisal) vs. 2008 market data (current reappraisal)
	Forest	10	Forest Land to Grazing		$ Market value change associated with value change due to a 2009 change in land use - Valued using 2002 market data (previous reappraisal) vs. 2008 market data (current reappraisal)
	Agriculture Land	3	Dry land Grazing to Irrigated Production		$ Market value change associated with value change due to a 2009 change in land use - Valued using 2002 market data (previous reappraisal) vs. 2008 market data (current reappraisal)
PHASE-IN	Forest and Agriculture Land (Productivity Change)	10 & 3			$ Market value change associated with value change due to a 2009 change in PRODUCTIVITY - Valued using 2002 market data (previous reappraisal) vs. 2008 market data (current reappraisal)

Information Response to Question #9

Biennium Costs of Refunding the Differences in Taxes If Property Reclassifications Were Phased In - All Cyclically Appraised Classes of Property

		2009			2010			Biennium		
		Taxes 2009	Recalculated Taxes 2009	Difference	Taxes 2010	Recalculated Taxes 2010	Difference	Taxes	Recalculated Taxes	Difference
Class 3	Agricultural	$70,806,864	$55,399,966	$15,406,898	$69,003,361	$57,140,575	$11,862,786	$139,810,225	$112,540,541	$27,269,684
Class 4	Residential	$559,022,889	$537,675,672	$21,347,217	$565,032,543	$549,298,112	$15,734,431	$1,124,055,432	$1,086,973,784	$37,081,648
Class 4	Commercial	$226,029,238	$214,878,160	$11,151,078	$231,460,927	$223,045,095	$8,415,832	$457,490,165	$437,923,255	$19,566,910
Class 10	Forest	$3,210,376	$2,713,980	$496,396	$3,195,466	$2,810,029	$385,437	$6,405,842	$5,524,008	$881,833
Total		$859,069,367	$810,667,777	$48,401,590	$868,692,296	$832,293,811	$36,398,485	$1,727,761,663	$1,642,961,588	$84,800,075